

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

JOSEPH ANTONETTI,

Plaintiff,

v.

DWIGHT NEVEN, et al.,

Defendants.

Case No. 2:07-cv-000162-MMD-VCF

At the hearing held on April 30, 2013, the Court granted Plaintiff leave to amend his Complaint to add two defendants, Mr. Monin and Mr. Collins. The Court gave Plaintiff thirty (30) days to submit information to support his representation that he has exhausted his administrative remedies with respect to his allegation of deprivation of outdoor exercise from 2004 to the present, and not just from December 2004 to November 2005, as alleged in his initial Complaint. Plaintiff timely filed his supplement on May 7, 2013 (dkt. no. 156). The Court has reviewed the supplemental information and finds that Plaintiff has provided sufficient information to demonstrate exhaustion at this stage of the litigation. The Court therefore grants Plaintiff's request to amend his Complaint as follows: (1) to add Mr. Monins and Mr. Collins as defendants; and (2) to expand his claim of deprivation of outdoor exercise to cover 2004 to the present.

Plaintiff has 30 days from entry of this Order to file an amended complaint on the Court's approved form. The Clerk shall send a copy of the civil rights complaint form to

1 Plaintiff for that purpose. Failure to timely amend the complaint will result in the action  
2 proceeding on the following three claims in the Complaint:

- 3 (1) An Eighth Amendment claim pertaining to an alleged deprivation of outdoor  
4 exercise from December 2004 through November 2005;  
5 (2) The use of excessive force on November 15, 2005; and  
6 (3) The deprivation of a meal on November 15, 2005.

7 Moreover, Plaintiff is informed that the Court cannot refer to a prior pleading in  
8 order to make plaintiff's amended complaint complete. Local Rule 15-1 requires that an  
9 amended complaint be complete in itself without reference to any prior pleading. This is  
10 because, as a general rule, an amended complaint supersedes the original complaint.  
11 See *Loux v. Rhay*, 375 F.2d 55, 57 (9th Cir. 1967). Once Plaintiff files an amended  
12 complaint, the original pleading no longer serves any function in the case. Therefore, in  
13 an amended complaint, as in an original complaint, each claim and the involvement of  
14 each defendant must be sufficiently alleged.

15 Defendants' Motion to Extend Time (dkt. no. 160) is granted. The Attorney  
16 General's office has seven (7) days to either file a notice of acceptance of service on  
17 behalf of defendants Monins and Collins or file a notice of their last known address  
18 under seal. The deadline for filing dispositive motions is extended to either: (1) sixty  
19 (60) days from Plaintiffs' filing of the amended complaint; or (2) thirty (30) days from the  
20 deadline for Plaintiff to file the amended complaint in the event Plaintiff fails to file the  
21 amended complaint within the 30-day deadline established by the Court.

22 DATED THIS 2<sup>nd</sup> day of July 2013.

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25 MIRANDA M. DU  
26 UNITED STATES DISTRICT JUDGE  
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